

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)

This Document Relates To All Actions
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**APPLICATION OF LESTER L. LEVY FOR APPOINTMENT
TO EXECUTIVE COMMITTEE AND PATRICIA I. AVERY
FOR APPOINTMENT AS “PLAINTIFF LIAISON COUNSEL”**

Pursuant to this Court’s July 18, 2014 Order (No. 5), Lester L. Levy of Wolf Popper LLP (“Wolf Popper” or “The Firm”) applies for appointment as a member of the Executive Committee and Patricia I. Avery of Wolf Popper applies for appointment as “Plaintiff Liaison Counsel.”¹

Lester L. Levy is the Chairman and Managing Partner of Wolf Popper and the head of its Consumer Law Department. Mr. Levy has been prosecuting complex class actions for over 40 years, and has regularly been designated as a New York “Super Lawyer”® in the Consumer and Class Action and Mass Torts categories. Mr. Levy has also lectured on complex litigation at the University of Illinois and the University of Miami Law Schools. Mr. Levy has personally served as a leader or member on multi-firm litigation/steering committees in a plethora of class actions.

Patricia I. Avery is a Senior Partner of Wolf Popper. Ms. Avery has been prosecuting complex class actions for over 35 years and has regularly served as lead or co-lead counsel in complex class actions. Consistent with this Court’s Order No. 5 regarding the requirements of “Plaintiff Liaison Counsel,” Ms. Avery’s office is located in New York. *See* Order No. 5, Section I. C.; *Manual for Complex Litigation, Fourth Edition* (“MCL 4th”) at § 10.221.²

Knowledge and Experience in Prosecuting Complex Litigation. Founded in 1945,

¹ Both Mr. Levy and Ms. Avery hold the highest peer-review rating issued by Martindale-Hubbell, “AV.”

² Because the Court has directed that submissions be limited to five (5) pages, Mr. Levy and Ms. Avery respectfully refer the Court to Wolf Popper’s website, www.wolfpopper.com, which contains their detailed biographies.

Wolf Popper has been successfully litigating complex class actions for seven decades. The Firm's efforts, which have recouped billions of dollars, have resulted in courts frequently appointing Wolf Popper to serve as lead or co-lead counsel in actions such as this one. For example, in *In re TJX Companies Retail Securities Breach Litigation*, Master Docket 07-10162, MDL No. 1838 (D. Mass), an MDL consumer class action involving the then "largest retail security breach in history," Wolf Popper served as co-lead counsel and achieved a settlement that provided the class with benefits valued at hundreds of millions of dollars. At the settlement hearing, the court (Young, J.), in describing the settlement as "excellent," praised the "wonderful job" performed by counsel.

In *Plumbers' & Pipefitters' Local #562 Supplemental Plan & Trust v. J.P. Morgan Acceptance Corporation I*, No. 08-cv-1713 (E.D.N.Y.), Wolf Popper, representing the Public Employees' Retirement System of Mississippi, served as co-lead counsel and achieved a \$280 million settlement. At the settlement approval hearing on July 24, 2014, the court (Chen, J.) congratulated counsel "on a very significant effort" in achieving a "good result" in a "difficult case." The court also praised plaintiffs' counsel for performing "yeoman's work" in establishing significant legal principles. In *In re Motorola Sec. Litig.*, 03-C-287 (N.D. Ill), Wolf Popper, representing the State of New Jersey, Department of Treasury, Division of Investment, served as co-lead counsel and achieved a \$190 million settlement on the eve of trial. At the hearing approving the settlement, the court (Pallmeyer, J.) complimented counsel, saying: "You did a great very professional job here. This was a hard fought, but extremely professionally fought battle."

Although Wolf Popper litigates cases in federal and state courts throughout the country, it is and has always been headquartered in this District and focuses its litigation efforts here. This has enabled the Firm to gain extensive experience and an excellent reputation in this District. For example, earlier this year, in *Tsereteli v. Residential Asset Securitization Trust 2006-A8*, No. 08 Civ. 10637 (S.D.N.Y.), Wolf Popper served as lead counsel and achieved a settlement representing

one of the largest percentage recoveries to date (as a function of statutory damages) in a mortgage-backed securities class action. During the litigation, the court (Kaplan, J.) praised Wolf Popper for “diligently and professionally” “protect[ing] the interests of [the lead plaintiff] and the prospective class throughout the more than three years this case has been before the Court.” In *In re AIG ERISA Litig.*, No. 04 Civ. 9387 (S.D.N.Y.), Wolf Popper served as co-lead counsel and achieved a \$24.2 million settlement. At the settlement approval hearing, the court (Duffy, J.) noted that “without the work of these [plaintiffs’] attorneys there would be nothing.”³

Willingness and Ability to Commit to a Time-Consuming Process. The Firm has always been willing and able to devote the appropriate and necessary resources to prosecute its actions. *See, e.g., Tsereteli.* In *Semon and Meister v. Swenson*, No. No. 5:10-cv-143 (D. Vt.), Wolf Popper served as lead counsel and achieved a multi-million dollar settlement that increased the price to be paid to minority shareholders in a buyout by the majority by 14.5%, as well as providing them with other, non-monetary benefits. In approving the settlement, the court (Reiss, J.) stated that it would “pay the compliment of tenaciousness” to Wolf Popper, noting that the Firm “stuck with the litigation, continued to vigorously pursue it, and convince[d] [it], through that, that they were willing to stick with the class through thick and thin[.]” The court further found that the Firm was “experienced, competent, zealous,” and that the case was “very professionally handled.”

Access to Resources to Prosecute the Litigation in a Timely Manner. Wolf Popper will assign attorneys and staff to this action who will devote the time necessary to fulfill the duties required by the Court. These attorneys include the three undersigned counsel, who have an aggregate of well over 80 years’ class action experience. Wolf Popper also has its own in-house

³ *See also Buxbaum v. Deutsche Bank, A.G.*, 98 Civ. 8460 (JGK) (S.D.N.Y.) (Wolf Popper served as co-lead counsel and achieved a \$58 million settlement, representing approximately 48% of maximum damages); *Carpi v. McDonnell Douglas Capital Income Fund-I*, 90 Civ. 3448 (JMC) (S.D.N.Y.), MDL No. 873 (Wolf Popper served as lead counsel in an MDL class action and recovered 95% of maximum damages. The court praised the Firm’s “professionalism” and noted that it had “at all times demonstrated to this Court the highest caliber of representation”).

document hosting and review platform and has utilized many other platforms in the past. The Firm is equipped to oversee and manage document depositories containing millions of documents.⁴

For example, the recent litigation in *Plumbers' & Pipefitters' Local #562 Supplemental Plan & Trust*, discussed *supra*, which lasted more than five years, required the review of tens of millions of pages of documents, many of which concerned arcane financial topics. In order to complete the review in a thorough but expeditious manner, Wolf Popper retained the services of financial and statistical experts and established a dedicated team of document reviewers who, after becoming familiar with the subject matter of the documents, were able to complete the review in a matter of months. Other cases we have prosecuted have involved similar productions.

Willingness and Ability to Work Cooperatively With Others. Wolf Popper is committed to working cooperatively with all other counsel and the Court. The Firm is intimately familiar with the Southern District as well as with other plaintiffs' counsel, many of whom we have worked closely with for many years in a variety of cases. Thus, Wolf Popper can readily facilitate communications between the Court and counsel, organize meetings, advise counsel of developments, and assist in the coordination of activities.⁵

The Firm has successfully directed the prosecution of cases by teams of attorneys dispersed throughout the United States. Wolf Popper's ability to work well with others is exemplified by its work in *Motorola*, discussed *supra*, a class action where Wolf Popper was co-lead counsel and supervised the work of numerous other firms.

Work Counsel Has Done in Identifying, Investigating, or Prosecuting Potential Claims in the Action and Knowledge of Applicable Law. In drafting the complaints Wolf

⁴ See MCL 4th § 10.221 (Liaison counsel "may act for the group in managing document depositories").

⁵ See MCL 4th § 10.221 (Liaison counsel's role is to oversee "essentially administrative matters, such as [facilitating] communications between the court and other counsel[,] . . . convening meetings of counsel, advising parties of developments, and otherwise assisting in the coordination of activities and positions.").

Popper filed in this action, the undersigned reviewed news reports, congressional testimony, government reports, GM's press releases, and videos from its CEO, Ms. Barra. The undersigned (and others at the Firm) also consulted with dozens of aggrieved current and former GM vehicle owners affected by the defects that led to the recalls. The Firm's clients have provided dealership records and mechanics reports, as well as their first-hand accounts of problems they experienced with their vehicles and delays they encountered when attempting to have vehicles repaired pursuant to recall notices. In preparing the pleadings, the Firm researched applicable law and pled those claims it believed were most likely to result in an achieved benefit for the class.

Geographic Diversity. Wolf Popper believes that it is important for a geographically diverse set of counsel to lead this nationwide class action. While no permanent appointments have yet been made, many candidates for leadership are primarily based in states other than New York. Wolf Popper, as a New York based firm, adds geographic diversity to the leadership structure.

Mr. Levy intends to briefly address the Court at the August 11, 2014 Initial Conference.⁶

Dated: July 28, 2014

Respectfully submitted,

/s/ Lester L. Levy

Lester L. Levy (LL-9956)

Patricia I. Avery (PA-8423)

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⁶ Mr. Levy prosecuted the following cases (discussed above): *TJX*; *Motorola*; *Tsereteli*; *Semon*; and *Buxbaum*.

CERTIFICATE OF SERVICE

I do hereby certify that, on this 28th day of July, 2014, a true and correct copy of the foregoing was electronically filed with the Court and served upon all counsel of record via the Court's ECF system.

/s/ Lester L. Levy
Lester L. Levy